

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$3,067.00 for dates of service, 06/06/01 through 06/26/01.
- b. The request was received on 06/05/02. The requestor withdrew CPT code 97799-CP for dates of service 03/26/01 through 06/01/01 per letter faxed on 04/04/03. On the new table submitted with this letter, the only code in dispute is 97799-CP for dates of service 06/06/01 through 06/26/01.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFA(s)
 - c. EOB/TWCC 62 forms/Medical Audit summary
 - d. Medical Records
 - e. Example EOBs from other Carriers
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution
 - b. HCFA(s)
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 09/09/02. Per Rule 133.307 (g) (4), the Carrier representative signed for the copy on 09/10/03. The response from the insurance carrier was received in the Division on 09/24/02. Based on 133.307 (i) the insurance carrier's response is timely
4. Notice of Additional Information Submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Taken from the original Table of Disputed Services
“(Provider) provided healthcare to (Claimant) reasonably required by the nature of the injury that cured or relieved the effects naturally resulting from the compensable injury, promoted recovery, and/or enhanced the ability of (Claimant) to return to or retain employment. To meet these goals, (provider) provided a Chronic Pain Management program utilizing protocols established by the Commission of Accreditation of Rehabilitation Facilities (CARF) and published in their 1994 Standards Manual. This type of program provides coordinated, goal-oriented, interdisciplinary team services to reduce pain, improve functioning, and decrease the dependence on the health care system of persons with chronic pain syndrome....Chronic Pain Management is billed as 9799-CP [sic] for each day and the number of hours spent in the program is indicated on the bill. Documentation of procedure is required and provided to the carrier....After a plan of care was established by (Provider), (Claimant) participated in activities including, but not limited to range of motion exercises, cardiovascular or aerobic exercises, functional activities simulating the work environment such as working at the computer, using office machines, etc. and biofeedback. Additionally, passive modalities such as traction, massage and moist hot packs were used to ease soreness caused by the increased activities. An integral part of the program also includes both vocational group sessions as well as group sessions conducted by a licensed professional counselor. Educational sessions were also provided. (Provider’s) usual and customary fee for these services is \$180.00 per unit (hour)....The Commission determined that some services are usual or too variable to have an assigned MAR. The values of the services shall be determined by written documentation attached to or included in the bill. (Provider) has complied with this definition....(Provider) objects to (Audit Company’s) use of both ‘M’ – ‘No MAR – reduced to fair and reasonable’ and their comments stating, ‘Not CARF accredited – paying @ 80% of allowed fee’. As stated above the Commission determined that some services are too variable to assign a MAR. Therefore, the healthcare provider provides documentation to substantiate their ‘usual and customary’ fee. In the present case, (Provider’s) usual and customary fee is \$180.00 per hour. Since they are not yet CARF accredited they do expect to only be reimbursed at 80% of their usual and customary fee. (Audit Company), however has obviously determined their own ‘fair and reasonable ‘ in violation of TWCC Rule 133.1(a)(8) or ‘allowable and are reimbursing (Provider) at 80% of that rate....(Provider) objects to this reimbursement rate....Again, since there is no MAR for Chronic Pain Management or applicable negotiated contract, (Provider’s) usual and customary fee of \$180.00 per hour must be paid....”
2. Respondent: Letter dated 09/24/02
“...Per Commission Rule 133.304, the Respondent has developed and consistently applied a methodology to determine a fair and reasonable reimbursement amount to ensure that similar procedures provided in similar circumstances receive similar reimbursement. The charges were reduced to fair and reasonable. Additionally, the provider is not CARF-certified and a reduction is warranted.... Neither the TWCC-60 nor the Requestor’s Additional Information contains proper justification for billed costs. Certain fees were reduced to a fair and reasonable rate, and other fees were denied. The documentation fails to substantiate the level of services charged and the documentation is

insufficient to support the charges. The file contains no cost breakdowns at all, and does not give any cost-basis upon which it can base its bill.... In order to demonstrate the reasonableness of a bill, the Requestor must provide evidence that the amounts it has charged achieve effective medical cost control, take into account payments made to others with an equivalent standard of living, and consider the increased security of payment.... The Requestor provides no such information.... Ultimately, the burden lies upon the Requestor to demonstrate the amount reimbursement it received from the Respondent was neither fair nor reasonable and was not in accordance with the requirements of the Texas Labor Code....”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 06/06/01 and extending through 06/26/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s updated Table of Disputed Services dated 04/04/03, the Requestor billed the Carrier \$5,735.00 for services rendered on the above dates in dispute.
4. Per the Requestor’s updated Table of Disputed Services dated 4/04/03, the Carrier paid the Requestor \$2,668.00 for services rendered on the above dates in dispute.
5. The Carrier’s EOBs deny additional reimbursement as “M-NO MAR, REDUCED TO FAIR & REASONABLE, NOT CARF ACCREDITED, PAYING @ 80% OF ALLOWED FEE; O-DENIAL AFTER RECONSIDERATION, RE-EVALUATION NO ADDITIONAL RECOMMENDED ALLOWANCE”.
6. Per the Requestor’s updated Table of Disputed Services DATED 04/03/03, the amount in dispute is \$3,067.00 for services rendered on the above dates in dispute.

7. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS (Maximum Allowable Reimbursement)	REFERENCE	RATIONALE:
06/06/01 06/07/01 06/08/01 06/14/01 06/18/01 06/19/01 06/21/01 06/26/01	97799-CP for all dates of service	\$925.00 \$740.00 \$740.00 \$740.00 \$740.00 \$740.00 \$555.00 \$555.00	\$460.00 \$368.00 \$368.00 \$368.00 \$368.00 \$368.00 \$276.00 \$92.00	M M M M, O M M M M	No MAR; DOP	MFG: Medicine Ground Rules (II) (G); 133.307 (g) (3) (D); 133.304 (i); 413.011 (b); CPT Descriptor	<p>The Carrier has reimbursed the provider at \$92.00 per hr. for Chronic Pain Management. The Provider has billed \$180.00 per hr. CPT Code 97799-CP is reimbursed at fair and reasonable.</p> <p>Pursuant to Rule 133.307 (g) (3) (D), the requestor must provide "...documentation that discusses, demonstrates and justifies the payment amount being sought is a fair and reasonable rate of reimbursement....". The Provider has submitted example EOBs. However, the EOBs submitted reflect various hourly rates billed for their Chronic Pain Program. Hourly billed rates ranged from \$180.00 to \$225.00 per hour. Some of the EOBs were unable to be utilized in review process. They did not contain the total number of units billed and could not be utilized to determine what hourly rate was billed. The EOBs that did show units billed reflected the various hourly rates mentioned above. Therefore, it is difficult to determine how this documentation discusses, demonstrates, or justifies that the hourly rate sought represents fair and reasonable. The rates themselves were variable with no documentation to support what determined when one hourly rate is billed as opposed to another.</p> <p>Therefore, no additional reimbursement is recommended.</p>
Totals		\$5,735.00	\$2,688.00				The Requestor is not entitled to additional reimbursement.

The above Findings and Decision are hereby issued this 8th day of April 2003.

Pat DeVries
Medical Dispute Resolution Officer
Medical Review Division

PD/pd